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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,458	01/14/2002	Carl S. Brown	11532-036001	1033

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EXAMINER

KASSA, YOSEF

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/047,458	Applicant(s) BROWN ET AL.	
	Examiner YOSEF KASSA	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments, (pages 4-7) filed on April 11, 2005, with respect to claims 1-19 under Stettner et al (U.S. Patent 5,501,096), in view of Jansson et al (US Patent 4,760,385) have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made on Pailthorp et al (U.S. Patent 4,941,082) and Smith et al (US Patent 6,699,627), and further in view of Jansson et al (US Patent 4,760,385).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pailthorp et al (U.S. Patent 4,941,082), and further in view of Smith et al (US Patent 6,699,627).

Regard to claim 1, Pailthorp discloses collecting calibration data (see Fig. 3, item 54);

determining the positioning and orthogonality errors from the calibration data (see col. 4, lines 51-63).

Pailthop does not explicitly call for creating a solution model based on positioning and orthogonality data. In the same field of endeavor, However, Smith teaches this feature (see col. 4, lines 22-27). At the time of the invention was made, it would have been obvious to a person of an ordinary skill in the art to incorporate the teaching of Smith model data processing system into Pailthop system. The suggestion/motivation for doing so would have been to improve measurement accuracy reduces the need for cross calibration and allow direct interpretation after calibration file correction using the set reference values.

Regard to claim 2, Pailthop discloses further comprising modifying the position an image area based on the solution model (see col. 5, lines 1-7).

With regard to claim 3, Pailthop discloses further comprising modifying the positioning of a mechanical system to compensate for errors based on the solution model (see col. 5, lines 20-28).

With regard to claim 4, Pailthop discloses further comprising determining calibration data based on stepping data (see col. 5, lines 12-20).

With regard to claim 5, Pailthop discloses further comprising determining calibration data based on slide data using a reference slide (see col. 5, lines 28-35).

With regard to claim 6, Pailthop discloses further comprising determining calibration data based on sub-spot data (see col. 5, lines 12-20).

With regard to claim 7, Pailthop discloses further comprising determining calibration data based on absolute data (see col. 5, lines 6-12).

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3. Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (US Patent 6,699,627) and Pailthorp et al (U.S. Patent 4,941,082), and further in view of Jansson et al (4,760,385).

With regard to claim 14, Smith discloses a staging area which moves relative to a camera (col. 4, lines 1-4);

a processor which collects positional and orthogonality calibration data from the staging area (see col. 4, lines 14-21),

wherein the processor creates an adjustment algorithm to modify movement of the staging area to compensate for the calibration data (see col. 6, lines 13-18).

Smith does not explicitly call for a plurality of specimens arranged within a scan area. However, in the same field of endeavor, Jansson teaches this feature (see col. 5, lines 5-12). At the time of the invention, it would have been obvious to incorporate the teaching of Jansson's specimens scanning system into Smith image scanning system. The suggestion/motivation for doing so would have to scan specimens object for detecting a field of interest within the object plane.

With regard to claim 15, Smith discloses the calibration data is based on a bright spot within the scan area (see col. 19, lines 53-58).

With regard to claim 16, Smith discloses the staging area is positioned to collect a plurality of images, each of the plurality of images comprising a portion of the total desired image (see Fig. 11A and 11B).

Claim 17 is similarly analyzed and rejected the same as claim 16.

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With regard to claim 18, Smith discloses wherein the calibration data is obtained without the use of a reference slide (see col. 4, lines 1-6).

With regard to claim 18, Smith discloses wherein the calibration data is obtained with the use of a reference slide (see col. 4, lines 28-32).

Allowable Subject Matter

4. Claims 8-13 allowed.

The following is an examiner's statement of reasons for allowance. The closest prior art of record failed to teach or suggest, applying the adjustment parameters to position a first portion of the plurality of specimens within a scan area, obtaining an image of the first portion of the plurality of specimens, applying the adjustment parameters to position a second portion of the plurality of specimens within a scan area, obtaining an image of the second portion of the plurality of specimens, and combining the image of the first portion and the image of the second portion to create the image of the plurality of specimens. Therefore, in combination with all the other limitations claims 8-13 are allowable.

Other Prior Art Cited

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. (5365074) to Genovese discloses apparatus for determining registration of imaging members.

US Patent No. (5354992 to Thompson et al discloses tilt compensated error correcting system.

US Patent No. (5446545) to Taylor discloses method of and apparatus for calibrating machines...

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOSEF KASSA whose telephone number is (703) 306-5918. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BHAVESH MEHTA can be reached on (703) 308-5246. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and (571) 273-8300 for after Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PATENT EXAMINER

Yosef Kassa



07/27/05.



**SANJIV SHAH
PRIMARY EXAMINER**